

AMENDED IN SENATE MAY 27, 2014
AMENDED IN SENATE MAY 12, 2014
AMENDED IN SENATE APRIL 28, 2014
AMENDED IN SENATE MARCH 25, 2014

SENATE BILL

No. 1446

Introduced by Senator DeSaulnier
(Coauthor: Senator Anderson)

February 21, 2014

An act to add Section 1367.012 to the Health and Safety Code, and to add Section 10112.300 to the Insurance Code, relating to health care coverage, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1446, as amended, DeSaulnier. Health care coverage: small employer market.

Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms that take effect with respect to plan years on or after January 1, 2014. Among other things, PPACA requires each health insurance issuer that offers health insurance coverage in the individual or group market in a state to accept every employer and individual in the state that applies for that coverage and to renew that coverage at the option of the plan sponsor or the individual. PPACA prohibits a group health plan and a health insurance issuer offering group or individual health insurance coverage from imposing any preexisting condition exclusion with respect to that plan or coverage. PPACA allows the premium rate charged by a health insurance issuer offering small group or individual coverage to vary only by rating area, age, tobacco use, and whether the coverage

is for an individual or family and prohibits discrimination against individuals based on health status. PPACA requires a health insurance issuer that offers coverage in the small group or individual market to ensure that the coverage includes the essential health benefits package, as defined. However, guidance issued under PPACA grants transitional relief to health insurance coverage in the individual or small group market for policies in effect on October 1, 2013, that are renewed for a policy year starting between January 1, 2014, and October 1, 2016, and exempts that coverage from certain PPACA reforms, as specified.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law implements the PPACA reforms described above under the Knox-Keene Act and the laws governing health insurance.

This bill would allow a small employer health care service plan contract or a small employer health insurance policy that was in effect on ~~October 1, 2013~~, *December 31, 2013*, that is still in effect as of the effective date of this act, and that does not qualify as a grandfathered health plan under PPACA, to be renewed until January 1, 2015, and to continue to be in force until December 31, 2015. The bill would exempt those health care service plan contracts and health insurance policies from various provisions of state law that implement the PPACA reforms described above and would require that the contracts and policies be amended to comply with those provisions by January 1, 2016, in order to remain in force on and after that date. The bill would require that these provisions be implemented only to the extent permitted by PPACA.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1367.012 is added to the Health and
- 2 Safety Code, to read:
- 3 1367.012. (a) (1) A small employer health care service plan
- 4 contract in effect on ~~October 1, 2013~~, *including those renewed by*
- 5 *December 31, 2013*, and still in effect as of the effective date of

1 this section, that does not qualify as a grandfathered health plan
2 under Section 1251 of PPACA may be renewed until January 1,
3 2015, and may continue to be in force until December 31, 2015,
4 subject to applicable federal law, and any other requirements
5 imposed by this chapter.

6 (2) A small employer health care service plan contract described
7 in paragraph (1) may continue to be in force after December 31,
8 2015, if the contract is amended to comply with all of the
9 provisions listed in subdivision (e) by January 1, 2016, and
10 complies with all other applicable provisions of law.

11 (b) (1) ~~Prior to renewing~~ *If a health care service plan offers*
12 *for renewal* a small employer health care service plan contract
13 pursuant to paragraph (1) of subdivision (a), the health care service
14 plan shall provide notice to the group contractholder regarding the
15 option to renew coverage pursuant to subdivision (a) using the
16 relevant notice attached to the guidance entitled “Insurance
17 Standards Bulletin Series – Extension of Transition Policy through
18 October 1, 2016,” issued by the United States Department of Health
19 and Human Services, Centers for Medicare and Medicaid Services
20 on March 5, 2014.

21 (2) A health care service plan shall include the following notice
22 with the notice issued pursuant to paragraph (1):
23

24 “New health care coverage options are available in California.
25 You currently have health care coverage that is not required to
26 comply with many new laws. ~~For example, your current plan might~~
27 ~~not include coverage for some of the benefits that must be covered~~
28 ~~in the new health care products.~~ *A new health care service plan*
29 *contract may be more affordable and/or offer more comprehensive*
30 *benefits. New plans may also have limits on deductibles and*
31 *out-of-pocket costs, while your existing plan may have no such*
32 *limits.*

33 You have the option to remain with your current coverage for
34 one more year or switch to new coverage that complies with the
35 new laws. *Covered California, the state’s new health insurance*
36 *marketplace, offers small employers health insurance from a*
37 *number of companies through its Small Business Health Options*
38 *Program (SHOP). Federal tax credits are available through the*
39 *SHOP to those small employers that qualify. Talk to Covered*

1 California—(1-800-300-1506), (1-877-453-9198), your plan
2 representative, or your insurance agent to discuss *your* options.”

3
4 (3) A health care service plan shall include with the notices
5 issued pursuant to paragraphs (1) and (2), the premium, cost
6 sharing, and benefits associated with the plan’s standard benefit
7 designs approved consistent with subdivision (c) of Section 100504
8 of the Government Code for the geographic region of the small
9 employer.

10 (4) *A health care service plan that offers for renewal a small*
11 *employer health care service plan contract pursuant to paragraph*
12 *(1) of subdivision (a) shall offer renewal to all employers whose*
13 *health care service plan contract with that health care service plan*
14 *was in effect on December 31, 2013.*

15 (c) (1) A small employer health care service plan contract in
16 effect on ~~October 1, 2013, including those renewed by~~ December
17 31, 2013, and still in effect as of the effective date of this section,
18 that does not qualify as a grandfathered health plan under Section
19 1251 of PPACA that is renewed on or before January 1, 2015, and
20 that continues to be in force until no later than December 31, 2015,
21 is exempt from the following provisions:

22 ~~(1)~~
23 (A) Paragraphs (1) and (2) of subdivision (a) of, and subdivisions
24 (e) and (i) of, Section 1357.503.

25 ~~(2)~~
26 (B) Section 1357.512.

27 ~~(3)~~
28 (C) Sections 1367.005 and 1357.508.

29 ~~(4)~~
30 (D) Section 1367.0065.

31 ~~(5)~~
32 (E) Section 1367.006.

33 ~~(6)~~
34 (F) Section 1367.007.

35 ~~(7)~~
36 (G) Section 1367.009.

37 (2) *Notwithstanding paragraphs (1) and (2) of subdivision (a)*
38 *of, and subdivision (e) of, Section 1357.503, a small employer*
39 *health care service plan contract subject to this section shall only*
40 *be offered, marketed, and sold to an employer whose health care*

1 *service plan contract with that health care service plan was in*
2 *effect on December 31, 2013.*

3 (d) A small employer health care service plan contract described
4 in paragraph (1) of subdivision (a) shall be subject to Sections
5 1357.12 and 1357.13, and shall continue to be subject to Article
6 3.16 (commencing with Section 1357.500), except as provided in
7 subdivision (c), and to all otherwise applicable provisions of this
8 chapter.

9 (e) No later than January 1, 2016, a small employer health care
10 service plan contract described in paragraph (1) of subdivision (a)
11 may be amended to comply with all of the following:

12 (1) Paragraphs (1) and (2) of subdivision (a) of, and subdivisions
13 (e) and (i) of, Section 1357.503.

14 (2) Section 1357.512.

15 (3) Sections 1357.508 and 1367.005.

16 (4) Section 1367.006.

17 (5) Section 1367.007.

18 (6) Section 1367.009.

19 (f) This section shall be implemented only to the extent
20 permitted by PPACA.

21 (g) For purposes of this section, the following definitions shall
22 apply:

23 (1) "PPACA" means the federal Patient Protection and
24 Affordable Care Act (Public Law 111-148), as amended by the
25 federal Health Care and Education Reconciliation Act of 2010
26 (Public Law 111-152), and any rules, regulations, or guidance
27 issued pursuant to that law.

28 (2) "Small employer health care service plan contract" means
29 a group health care service plan contract, other than a specialized
30 health care service plan contract, issued to a small employer, as
31 defined in subdivision (s) of Section 1357.500.

32 SEC. 2. Section 10112.300 is added to the Insurance Code, to
33 read:

34 10112.300. (a) (1) A small employer health benefit plan in
35 effect on ~~October 1, 2013, including those renewed by~~ December
36 31, 2013, and still in effect as of the effective date of this section,
37 that does not qualify as a grandfathered health plan under Section
38 1251 of PPACA may be renewed until January 1, 2015, and may
39 continue to be in force until December 31, 2015, subject to

1 applicable federal law, and any other requirements imposed by
2 this part.

3 (2) A small employer health benefit plan described in paragraph
4 (1) may continue to be in force after December 31, 2015, if the
5 plan is amended to comply with all of the provisions listed in
6 subdivision (e) by January 1, 2016, and complies with all other
7 applicable provisions of law.

8 (b) (1) ~~Prior to renewing~~ *If an insurer offers for renewal* a small
9 employer health benefit plan pursuant to paragraph (1) of
10 subdivision (a), the insurer shall provide notice to the group
11 contractholder regarding the option to renew coverage pursuant
12 to subdivision (a) using the relevant notice attached to the guidance
13 entitled “Insurance Standards Bulletin Series – Extension of
14 Transition Policy through October 1, 2016,” issued by the United
15 States Department of Health and Human Services, Centers for
16 Medicare and Medicaid Services on March 5, 2014.

17 (2) An insurer shall include the following notice with the notice
18 issued pursuant to paragraph (1):

19
20 “New health care coverage options are available in California.
21 You currently have health care coverage that is not required to
22 comply with many new laws. ~~For example, your current insurance~~
23 ~~might not include coverage for some of the benefits that must be~~
24 ~~covered in the new health care products. A new health benefit plan~~
25 *may be more affordable and/or offer more comprehensive benefits.*
26 *New plans may also have limits on deductibles and out-of-pocket*
27 *costs, while your existing plan may have no such limits.*

28 You have the option to remain with your current coverage for
29 one more year or switch to new coverage that complies with the
30 new laws. *Covered California, the state’s new health insurance*
31 *marketplace, offers small employers health insurance from a*
32 *number of companies through its Small Business Health Options*
33 *Program (SHOP). Federal tax credits are available through the*
34 *SHOP to those small employers that qualify. Talk to Covered*
35 *California—(1-800-300-1506), (1-877-453-9198), your plan*
36 *representative, or your insurance agent to discuss your options.”*
37

38 (3) An insurer shall include with the notices issued pursuant to
39 paragraphs (1) and (2), the premium, cost sharing, and benefits
40 associated with the plan’s standard benefit designs approved

1 consistent with subdivision (c) of Section 100504 of the
2 Government Code for the geographic region of the small employer.

3 *(4) An insurer that offers for renewal a small employer health*
4 *benefit plan pursuant to paragraph (1) of subdivision (a) shall*
5 *offer renewal to all employers whose health benefit plan with that*
6 *insurer was in effect on December 31, 2013.*

7 *(c) (1) A small employer health benefit plan in effect on October*
8 *1, 2013, including those renewed by December 31, 2013, and still*
9 *in effect as of the effective date of this section, that does not qualify*
10 *as a grandfathered health plan under Section 1251 of PPACA that*
11 *is renewed on or before January 1, 2015, and that continues to be*
12 *in force until no later than December 31, 2015, is exempt from the*
13 *following provisions:*

14 ~~(1)~~
15 *(A) Paragraph (1) of subdivision (b) of, and subdivisions (c),*
16 *(g), and (k) of, Section 10753.05.*

17 ~~(2)~~
18 *(B) Section 10753.14.*

19 ~~(3)~~
20 *(C) Section 10112.27.*

21 ~~(4)~~
22 *(D) Section 10112.285.*

23 ~~(5)~~
24 *(E) Section 10112.28.*

25 ~~(6)~~
26 *(F) Section 10112.29.*

27 ~~(7)~~
28 *(G) Section 10112.297.*

29 *(2) Notwithstanding paragraph (1) of subdivision (b) of, and*
30 *subdivision (g) of, Section 10753.05, a small employer health*
31 *benefit plan subject to this section shall only be offered, marketed,*
32 *and sold to an employer whose health benefit plan with that insurer*
33 *was in effect on December 31, 2013.*

34 *(d) A small employer health benefit plan described in paragraph*
35 *(1) of subdivision (a) shall be subject to Sections 10714 and 10715,*
36 *and shall continue to be subject to Chapter 8.01 (commencing with*
37 *Section 10753), except as provided in subdivision (c), and to all*
38 *otherwise applicable provisions of this part.*

1 (e) No later than January 1, 2016, a small employer health
2 benefit plan described in paragraph (1) of subdivision (a) may be
3 amended to comply with all of the following:

4 (1) Paragraph (1) of subdivision (b) of, and subdivisions (c),
5 (g), and (k) of, Section 10753.05.

6 (2) Section 10753.14.

7 (3) Section 10112.27.

8 (4) Section 10112.28.

9 (5) Section 10112.29.

10 (6) Section 10112.297.

11 (f) This section shall be implemented only to the extent
12 permitted by PPACA.

13 (g) For purposes of this section, the following definitions shall
14 apply:

15 (1) “Health benefit plan” has the same meaning as defined in
16 subdivision (j) of Section 10753.

17 (2) “PPACA” means the federal Patient Protection and
18 Affordable Care Act (Public Law 111-148), as amended by the
19 federal Health Care and Education Reconciliation Act of 2010
20 (Public Law 111-152), and any rules, regulations, or guidance
21 issued pursuant to that law.

22 (3) “Small employer health benefit plan” means a group health
23 benefit plan issued to a small employer, as defined in Section
24 10753.

25 SEC. 3. This act is an urgency statute necessary for the
26 immediate preservation of the public peace, health, or safety within
27 the meaning of Article IV of the Constitution and shall go into
28 immediate effect. The facts constituting the necessity are:

29 In order to carry out the extended transitional policy under the
30 federal Patient Protection and Affordable Care Act (Public Law
31 111-148) announced by the United States Department of Health
32 and Human Services, Centers for Medicare and Medicaid Services
33 on March 5, 2014, and to allow small businesses to reenroll in
34 their current health care coverage until 2016, it is necessary that
35 this act take effect immediately.